

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
LCR Telecommunications, LLC	)	IC Nos. 02-S71163
	)	03-S82477
Complaints Regarding	)	03-S83613
Unauthorized Change of	)	03-S83823
Subscriber's Telecommunications Carrier	)	03-S84105
	)	03-S84107
	)	03-S84295
	)	03-S84296
	)	03-S85043
	)	03-S85098
	)	03-S85171
	)	03-S85172
	)	03-S85176
	)	03-S85186
	)	03-S85190
	)	03-S85207
	)	03-S85211
	)	03-S85221
	)	03-S85296
	)	03-S85302
	)	03-S85306
	)	03-S85317
	)	03-S85559
	)	03-S85840
	)	03-I0075087S

ORDER

Adopted: January 19, 2005

Released: January 26, 2005

By the Deputy Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaints filed by Complainants¹ alleging that LCR Telecommunications, LLC (LCR) changed Complainants' telecommunication service provider without obtaining authorization and verification from Complainants in violation of the Commission's rules.² We conclude that LCR has responded fully to the Complainants' complaints and has taken action to resolve the complaints.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).³ Section 258 prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.⁴ In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.⁵ Pursuant to Section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures.⁶ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtain confirmation from the subscriber via a toll-free number

¹ See Appendix A. Informal Complaint No. 03-S84296 is a duplicate of Informal Complaint No. 03-S84295.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

³ 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); Third Order on Reconsideration and Second Further Notice of Proposed Rule Making, 18 FCC Rcd 5099 (2003); Order, FCC 03-116, (rel. May 23, 2003). Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. See, e.g., *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

⁴ 47 U.S.C. § 258(a).

⁵ See 47 C.F.R. § 64.1120.

⁶ 47 U.S.C. § 258(a).

provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁷

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.⁸ Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.⁹

4. We received Complainants' complaints alleging that Complainants' telecommunications service providers had been changed without Complainants' authorization.¹⁰ Pursuant to Section 1.719 and 64.1150 of our rules,¹¹ we notified LCR of the complaints and LCR responded.¹² LCR has fully absolved Complainants of all charges assessed by LCR in a manner consistent with the Commission's liability rules.¹³ Based on the information before us, we therefore find that the complaints referenced herein have been resolved.¹⁴

5. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaints against LCR Telecommunications, LLC ARE RESOLVED.

⁷ See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

⁸ See 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

⁹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹⁰ See Appendix A.

¹¹ 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹² See Appendix A.

¹³ See 47 C.F.R. § 64.1160.

¹⁴ If a Complainant is unsatisfied with the resolution of this complaint, such Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to such Complainant. See 47 C.F.R. § 1.719.

6. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau

APPENDIX A

<u>IC NUMBER</u>	<u>DATE OF COMPLAINT</u>	<u>DATE OF CARRIER RESPONSE</u>
02-S71163	March 18, 2002	July 2, 2002
03-S82477	December 3, 2002	March 4, 2002
03-S83613	April 24, 2003	June 13, 2003
03-S83823	May 2, 2003	July 7, 2003
03-S84105	May 30, 2003	July 17, 2003
03-S84107	May 29, 2003	July 21, 2003
03-S84295	June 3, 2003	September 2, 2003
03-S84296	October 27, 2003	December 8, 2003
03-S85043	September 8, 2003	November 20, 2003
03-S85098	September 23, 2003	October 20, 2003
03-S85171	September 23, 2003	November 7, 2003
03-S85172	September 17, 2003	November 7, 2003
03-S85176	October 6, 2003	November 7, 2003
03-S85186	September 30, 2003	November 18, 2003
03-S85190	September 30, 2003	November 18, 2003
03-S85207	September 17, 2003	November 18, 2003
03-S85211	September 29, 2003	November 18, 2003
03-S85221	September 26, 2003	November 20, 2003

03-S85296	October 14, 2003	December 3, 2003
03-S85302	October 10, 2003	December 3, 2003
03-S85306	October 16, 2003	December 3, 2003
03-S85317	October 20, 2003	December 8, 2003
03-S85559	November 12, 2003	December 22, 2003
03-S85840	December 16, 2003	February 10, 2004
03-I0075087S	November 4, 2003	February 4, 2004